

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

### NOTICE OF EMERGENCY RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in sections 8(b)(1) (C), (D), (E), (F), (G), (I), (J), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012 (“Commission Fund Amendment Act”) effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-320(a))(2012 Supp.) hereby gives notice of emergency rulemaking action to amend Chapter 6 (Taxicab Parts and Equipment), of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This Emergency Rulemaking is necessary to protect and promote the public peace, safety, and welfare of the residents of and visitors to the District of Columbia by implementing, on an emergency basis, a regulatory framework that will allow the Commission to pre-approve proposed modern taximeter systems that will collect a fee expected to aggregate at least \$1 million in fiscal year 2013 and each fiscal year thereafter in the form of a passenger surcharge for each ride in a taxicab, as authorized by the Commission Fund Amendment Act.

This emergency rulemaking was adopted on February 5, 2013, and will take effect upon publication in the *D.C. Register*, and will remain in effect for up to one hundred twenty (120) days after the date of publication, or upon earlier amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

**The Commission hereby amends Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, by amended Section 604, MODERN TAXIMETER SYSTEMS, to read as follows:**

604.1-604.19 RESERVED

604.20 The Commission anticipates promulgating one or more final rulemaking(s) in compliance with the Administrative Procedures Act to require that each licensed taxicab in the District of Columbia be equipped with and operated only through the use of a modern taximeter system (“MTS”) approved by the Office of Taxicabs (“Office”) (“the final rulemaking”).

604.21 The Commission believes it would benefit from an informational process allowing it to identify those who may be interested in acting as PSPs to provide MTSs to the District of Columbia taxicab industry, and allowing the industry and the general public to learn more about the technology anticipated to meet the requirements of the final rulemaking.

- 604.22 An authorized representative of a business interested in operating as a PSP may submit an application for the pre-approval of a proposed MTS pursuant to the pre-approval process of § 604.24, and subject to the requirements of §§ 604.25, 604.26, and 604.27.
- 604.23 The Office shall not charge a filing fee for a pre-approval application.
- 604.24 Pre-Approval Process. The process for seeking pre-approval of an MTS shall be as follows:
- (a) An authorized representative of a business interested in operating as a PSP may submit an application for pre-approval of a proposed MTS, by filing an application on a form satisfactory to the Office, executed under penalty of perjury, and by providing:
    - (1) Its name and contact information, and the name(s) of and contact information for its owners and operators; and
    - (2) Information and documentation demonstrating that the proposed MTS will meet the equipment requirements of § 604.25 and the service and support requirements of § 604.26.
  - (b) Throughout the process, the applicant shall cooperate with the Office to determine to the satisfaction of the Office, in its sole discretion, that the MTS will meet the requirements of §§ 604.25 and 604.26.
  - (d) The Office shall issue its decision to grant or deny pre-approval in writing.
- 604.25 Equipment Requirements. An MTS shall incorporate any reasonable combination of modern, fixed or mobile, hardware technology components, such as a Bluetooth-enabled Smartphone, mobile data terminal, or tablet, with an attached or integrated credit card reader, that either links to an existing taximeter or replaces it, and shall:
- (a) Allow the PSP to validate the operator in real-time through a password unique to each operator;
  - (b) Collect, and allow the PSP to report to the Commission all the electronic trip data for each trip;
  - (c) Allow the PSP to process the Passenger Surcharge for each trip, regardless of the form of payment;
  - (d) Allow the PSP to process a cash payment, a cashless payment, and any other type of non-cash payment that the PSP may choose to offer;

- (e) Display text messages from the Office and only permit responses when the vehicle is stationary and only via pre-programmed responses;
- (f) Integrate with or replace the taximeter;
- (g) Use a wireless 3G or better cellular data connection;
- (h) Use a high-sensitivity Global Positioning Satellite (“GPS”) receiver that provides failover geo-coding using mobile wireless networks;
- (i) Record all trips made by the vehicle;
- (j) Print paper receipts and, if the passenger chooses, allow the operator to trigger the sending of an electronic receipt via email or SMS text service no later than when the passenger exits the vehicle containing at least: date and time; mileage of trip; trip number; PVIN; operator license (Face Card) number; itemization of the fare, including tolls, surcharges, additional charges; gratuity; and number of passengers;
- (k) Not store or allow the operator to access the passenger’s payment information after receiving authorization for the payment;
- (l) Have only once physical access-point to the taximeter if it uses a wired connection and allows only one wireless device to be paired to the taximeter if it uses a Bluetooth connection;
- (m) Not incorporate or connect to any display, fixed or mobile, that is intended to be viewed by passengers and that provides advertising, promotion of the MTS or PSP, public service announcements, or similar information, but shall be upgradeable to incorporate and connect to such technology without significant modification or cost;
- (n) Meet OWASP security guidelines, and complies with current standards issued by the Payment Card Industry Security Standards Council (“Council”) for payment card data security and with the requirements of Section 508 of the Rehabilitation Act of 1973; and
- (o) Not use, incorporate, or connect to hardware or software available for personal use by the owner or operator of the vehicle.

Service and Support Requirements. Each MTS shall operate only in combination with a single PSP that shall:

- (a) Be in compliance with this Title, and with all other applicable Federal and District licensing, permitting, registration, anti-discrimination, and taxation requirements for a business operating in the District;
- (b) Be in compliance with the clean hands requirements of D.C. Official Code § 47-2862 (2005 Repl. & 2011 Supp.);
- (c) Either maintain a bona fide administrative office, consisting of a physical office in the District of Columbia in the same manner applicable to a taxicab company under Chapter 5 and in compliance with all laws, rules, and regulations concerning the operation of a place of business in the District, or maintain a registered agent authorized to accept service of process, provided, however, that a PSP operated by a taxicab company, fleet, or association, shall maintain a bona fide administrative office;
- (d) Maintain with the Office a Vehicle Inventory that accurately reflects the vehicles in which MTS equipment is installed and the operators authorized to use it, and that meets the following additional requirements:
  - (1) An initial inventory shall be filed with the application for review and approval of the MTS;
  - (2) At all times after the filing of an initial inventory, each PPS shall routinely maintain its inventory to insure accuracy, through such means and at such times as required by the Commission, and shall cooperate with Commission to insure that the requirements of Section are met;
  - (3) For each vehicle, the inventory shall contain: the name of and contact information for its owner(s), including work, home, and cellular telephone numbers; the vehicle's PVIN, make, model, and year of manufacture; certification by the PSP that the vehicle is in compliance with the insurance requirements of Chapter 9 of this Title; an indication of whether the vehicle is wheelchair accessible; an indication with whether the vehicle is in active use; and, if the vehicle is associated with a taxicab company, association, or fleet, the name of and contact information for such company, association, or fleet;
  - (4) For each operator, the inventory shall contain: the name of and contact information for such operator, including work, home, and cellular telephone numbers; his or her DCTC vehicle operator license number; an indication of whether such operator is actively

using the MTS; and, if he or she is associated with a taxicab company, association, or fleet, the name of and contact information for such company, association, or fleet;

- (5) The Office may remove a vehicle or operator from the inventory at any time with reasonable notice to the PSP if such vehicle or operator is not legally authorized or permitted to operate, or if a particular MTS installation is no longer authorized or permitted; and
- (e) Provide live technical support to vehicle operators via a local “202” or toll-free telephone number answered promptly by technical support staff based in the Washington Metropolitan Area, 24 hours per day, 365 days per year;
- (f) Store its business records in a safe and secure manner, and in compliance with industry best practices and applicable Federal and District law; make the records reflecting its compliance with this Chapter available for inspection and copying at the Office within five (5) business days following its receipt of a written demand from the Office, and by public vehicle inspection officers or other Commission staff of counsel, during normal business hours at a bona fide administrative office, if maintained; and retain its business records for at least five (5) years;
- (g) Notify the Office promptly following its receipt of notice of a security breach as to which a report must be made pursuant to the D.C. Consumer Personal Information Security Breach Notification Act of 2006, D.C. Official Code § 28-3851, *et seq.* or applicable Federal law;
- (h) For the processing of its cashless payments, as defined in Section 604.9, uses only technology that meets OWASP security guidelines, and complies with the current standards issued by the Payment Card Industry Security Standards Council (“Council”) for payment card data security (“PCI Standards”) and, for the processing of other non-cash payments, such as near-field device or payment via mobile- or web-based application, complies with applicable guidelines of the Council, and for all direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association;
- (i) Maintain a data connection to the MTS equipment installed in each vehicle that shall do all of the following:
  - (1) Validate the status of the operator’s DCTC operator license in real-time by connecting to the Office’s Back Office Management Information System (“BOMIS”) or through such other means as the Office may prescribe, and not permit the MTS to be used if the

operator's license is revoked or suspended, or if the operator is not in compliance with the insurance requirements of Chapter 9;

- (2) Report to the Office every twenty-four (24) hours via a single data feed electronic trip data, which means geospatially marking the pick-up, drop-off and current taxicab location information, and capturing and transmitting to the BOMIS in a data structure consistent across all PSPs as established by the Office, the following information:
  - (A) The date,
  - (B) Anonymously-reported but unique DCTC vehicle operator license number, PVIN, and tag number;
  - (C) The name of the taxicab company, association, or fleet if applicable;
  - (D) The time at beginning of tour of duty;
  - (E) The time and mileage of each trip;
  - (F) The time and geospatially recorded place of origin and time and geospatially recorded place of destination of each trip;
  - (G) The number of passengers and fare charged for each trip;
  - (H) The time at the end of each tour of duty
  - (I) The unique trip number;
  - (J) The itemized fare including any tolls, surcharges, and any gratuity for credit or debit purchases;
  - (K) The form of payment (cashless payment (including the brand of payment card), cash, voucher, or any other type of non-cash payment the PSP may choose to offer); and
- (3) Process or report each payment for each trip, regardless of the form of payment, and regardless of whether the trip was booked through dispatch or resulted from a street hail; and

- (j) Maintain a surcharge account and remit surcharge payments according to the following requirements:
  - (1) The account shall be opened prior to the issuance of final approval of the MTS;
  - (2) The account shall be opened by depositing with the Office a security bond in the amount of fifty-thousand dollars (\$50,000.00), payable to the D.C. Treasurer, which shall remain in force and effect for one (1) year following any action (including a decision to not take an allowable action) that results in the MTS no longer being approved; and
  - (3) Throughout the period of its operation and use by any vehicle operator, the PSP shall remit a payment to the D.C. Treasurer at the end of each seven (7) day period reflecting the sum of all passenger surcharges owed for all vehicles using the MTS during that period, which shall correlate with the trip data from the MTS it provided during such period, and shall send contemporaneously via email a report to the Office certifying its payment and providing a basis for the amount thereof.

604.27 Additional Requirements. The following additional requirements shall apply to the pre-approval process for proposed MTSs:

- (a) The pre-approval process is optional and informational, and it shall not create any legal rights, presumptions, obligations, or entitlements;
- (b) The MTS requirements of the final rulemaking may be different from those required for pre-approval;
- (c) The pre-approval process is not contractual, and an applicant for pre-approval shall not be deemed to be competing or bidding for a procurement with the District of Columbia.
- (d) A pre-approved MTS shall be required to apply for and meet the requirements for final approval under the final rulemaking; and
- (e) The Office may choose to use or not use during the final approval process information it acquires during the pre-approval process.

The following definitions shall apply to the pre-approval process:

- (a) The “passenger surcharge” is a fifty-cent (\$.50) per trip surcharge that an MTS will be required to collect and remit to the Commission for each and every trip in a District of Columbia taxicab.
- (b) A “surcharge account” is an account that will be established and maintained by the PSP with the Commission for the purpose of processing the Passenger Surcharge.
- (c) A “cashless payment” means payment by payment card made by the passenger inside the vehicle through the use of a credit or debit card (including but not limited to MasterCard, VISA, American Express, and Discover), presented by the passenger to the operator at the end of the trip and processed through the MTS equipment, without regard to the availability of other forms of non-cash payment offered by a PSP not inconsistent with this section, such as payment via near-field communications or Web or mobile application.
- (d) A “public vehicle-for-hire identification number” or “PVIN” is a unique number that will be assigned by the Office to each public vehicle-for-hire.
- (e) “Associated” connotes a voluntary relationship of employment, contract, ownership, or other legal affiliation, reflected in writing.

Copies of this emergency rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Jacques P. Lerner, General Counsel, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on this proposed rulemaking should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by mail to the D.C. Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques P. Lerner, General Counsel, no later than thirty (30) days after the publication of this notice in the *D.C Register*.